

UNITED STATES OF AMERICA,) Case No. 19-05054-01-CR-SW-RK
)
 Plaintiff,) Springfield, Missouri
) December 16, 2019
 v.)
)
 ADAM RAY LEE,)
)
 Defendant.)
)

APPEARANCES:

For the Plaintiff:

Mr. Abram McGull II
Assistant United States Attorney
901 E. St. Louis Street, Ste. 500
Springfield, MO 65806
(417) 831-4406

For the Defendant: Ms. Michelle N. Moulder
Federal Public Defender's Office
901 E. St. Louis Street, Ste. 801
Springfield, MO 65806
(417) 873-9022

Court Audio Operator: Ms. Rebecca Furtak

Transcribed by: Rapid Transcript
Lissa C. Whittaker
1001 West 65th Street
Kansas City, MO 64113
(816) 914-3613

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1 (Court in Session at 9:29 a.m.)

2 THE COURT: Calling in *United States vs. Adam Ray Lee*.

3 The defendant appears in person along with his attorney, Ms.
4 Michelle Moulder. The United States appears by Assistant United
5 States Attorney, Mr. Abe McGull, I believe on behalf of AUSA Ami
6 Miller?

7 MR. MCGULL: That is correct, Judge.

8 THE COURT: This matter is set this morning for a change
9 of plea to Count One of the Indictment in this case pursuant to a
10 written Plea Agreement. Mr. Lee, you have signed a consent to
11 have these proceedings for a plea of guilty before a Magistrate
12 Judge, with the understanding that a United States District
13 Judge, a judge of higher jurisdiction, will keep your case for
14 acceptance of the plea of guilty and sentencing. Even though you
15 signed this consent you have a right, if you wish, to appear
16 before a United States District Judge, a judge of higher
17 jurisdiction. At any appearance before the District Judge, you
18 are presumed innocent until such time, if ever, as the United
19 States establishes your guilt beyond a reasonable doubt to the
20 satisfaction of the judge or jury. You always have a right to be
21 present and to confront and cross-examine witnesses. You have a
22 right to use the power of the court to subpoena evidence on your
23 behalf and you have a right to testify or not testify as you
24 would choose. And if you chose not to testify it would not be
25 held against you because that is your right. If, after

1 understanding the charges against you, the range of punishment,
2 if convicted, and your right to appear before a District Judge,
3 if you wish, you may waive or give up that right and proceed this
4 morning before the Magistrate Judge. As I indicated, you have
5 signed such a consent. Do you understand that you have a right
6 to appear before a United States District Judge, a judge of
7 higher jurisdiction, for these proceedings?

8 MR. LEE: Yes, Your Honor, I do.

9 THE COURT: And is it your desire to give up that right
10 and proceed this morning before the Magistrate Judge?

11 MR. LEE: Yes, Your Honor.

12 THE COURT: Do you understand the charge against you in
13 Count One of the Indictment in this case?

14 MR. LEE: Yes, Your Honor.

15 THE COURT: Do you understand that if convicted of the
16 charge in Count One, that the minimum penalty the court may
17 impose is not less than 15 years imprisonment, while the maximum
18 penalty the court may impose is not more than 30 years
19 imprisonment, not more than a \$250,000 fine, not less than five
20 years supervised release or not more than life supervised
21 release, an order of restitution, a \$5,000 JVTA special
22 assessment, and a \$100 mandatory special assessment?

23 MR. LEE: Yes, Your Honor.

24 THE COURT: To the charge in Count One, how do you wish
25 to plead, guilty or not guilty?

1 MR. LEE: Guilty, Your Honor.

2 THE COURT: Would you please raise your right hand as
3 best you can?

4 MR. LEE: Oops --

5 THE COURT: That's okay. That happens all the time.

6 ADAM RAY LEE, DEFENDANT, SWORN

7 THE COURT: Has anyone made any threat of any kind to
8 force you to plead guilty or give up any of the other rights
9 we've discussed this morning?

10 MR. LEE: No, Your Honor, they have not.

11 THE COURT: You have signed a Plea Agreement. Have you
12 read that agreement and gone over it with Ms. Moulder?

13 MR. LEE: Yes.

14 THE COURT: Do you understand what's contained in the
15 Plea Agreement?

16 MR. LEE: Yes, Your Honor, I do.

17 THE COURT: Other than what is contained in the Plea
18 Agreement, has anyone made any promise of any kind to induce you
19 or overcome your will to get you to plead guilty or give up any
20 of the other rights we've discussed?

21 MR. LEE: No, Your Honor.

22 THE COURT: I mentioned to you that there was a
23 supervised release term of not less than five years or not more
24 than life that could be imposed in your case. Do you understand
25 that if that term were imposed and then revoked for any reason,

1 that you could be required to serve an additional term of
2 imprisonment of not more than three years. However, if the court
3 would revoke the supervised release because you committed an
4 offense under Chapter 109(a), 110, which are child pornography
5 offenses, or 117 or Section 1201 or 1591 of Title 18 of the
6 United States Code, the law may allow the court to impose a
7 period of imprisonment of not less than five years and in either
8 scenario, if that happened, you would receive no credit for any
9 other time you had spent either in custody or on release? Do you
10 understand that?

11 MR. LEE: Yes, Your Honor, I do.

12 THE COURT: Do you understand that the court could then
13 impose an additional term of supervised release, which is
14 governed by the maximum of the statute, minus any time you'd
15 spent in custody as a result of a violation?

16 MR. LEE: Yes, Your Honor.

17 THE COURT: Do you understand that by pleading guilty to
18 the instant offense you will be required under the Sex Offender
19 Registration and Notification Act to register as a sex offender
20 and keep the registration current in each of the following
21 jurisdictions: where you reside, where you are employed and where
22 you are a student?

23 MR. LEE: Yes, Your Honor, I do.

24 THE COURT: Do you understand that from a sentence
25 imposed in your case that there is no parole?

1 MR. LEE: Yes, Your Honor.

2 THE COURT: Do you understand that there are Sentencing
3 Guidelines to which the District Court or the sentencing court
4 would refer to in an advisory capacity when attempting to fashion
5 a reasonable sentence in your case?

6 MR. LEE: Yes.

7 THE COURT: There are guideline calculations in your
8 Plea Agreement. Have you discussed the guidelines with your
9 attorney?

10 MR. LEE: Yes, I have.

11 THE COURT: And do you understand them?

12 MR. LEE: Yes, Your Honor.

13 THE COURT: Do you understand that the final decision as
14 to how the guidelines are calculated and ultimately what sentence
15 will be imposed rests with the District Judge?

16 MR. LEE: Yes, Your Honor.

17 THE COURT: If the District Judge would calculate the
18 guidelines differently from what is in your Plea Agreement, and
19 from what you've discussed with Ms. Moulder, that fact would not
20 give you the right to withdraw or change your plea of guilty. Do
21 you understand that?

22 MR. LEE: Yes, Your Honor.

23 THE COURT: Once the judge establishes the advisory
24 guideline range, in some circumstances, you could be sentenced
25 above that range and, in other circumstances, you could be

1 sentenced below that range. And again, the judge's decision, if
2 you disagree, would not give you the right to withdraw your plea
3 of guilty. Do you understand that?

4 MR. LEE: Yes.

5 THE COURT: Now, Mr. Lee, you have a right to a trial by
6 jury with all the protections that I explained to you at the
7 beginning of these proceedings. Do you understand your right to
8 a trial by jury?

9 MR. LEE: Yes, I do.

10 THE COURT: And do you understand that if the court
11 accepts your plea of guilty that there won't be a trial?

12 MR. LEE: Yes.

13 THE COURT: I'm going to ask you about the offense
14 charged in Count One of the Indictment in this case. I would
15 remind you that you are under oath. You must answer truthfully.
16 Any false answers could result in charges of false swearing or
17 perjury. You always have the right to remain silent. I'd like
18 to direct your attention to the top of page 2, Paragraph 3, which
19 is entitled in bold **Factual Basis for Guilty Plea**. That takes up
20 the entirety of page 2 and then the top, oh, quarter portion of
21 page 3. Have you read Paragraph 3 and gone over it with Ms.
22 Moulder?

23 MR. LEE: Yes, I have.

24 THE COURT: Are the statements contained in Section 3
25 true?

1 MR. LEE: Yes, Your Honor.

2 THE COURT: Ms. Moulder, you've had access to the
3 Government's discovery file in this case, have you not?

4 MS. MOULDER: Yes, Your Honor.

5 THE COURT: And based upon your review of the discovery
6 file, are you satisfied if put to proof, that the United States
7 could make a submissible case as to all the elements pertaining
8 to Count One of the Indictment as set forth in Section 3 of the
9 Plea Agreement?

10 MS. MOULDER: Yes, Your Honor.

11 THE COURT: There is an adequate factual basis for the
12 plea of guilty to Count One. I find that the plea is voluntary
13 and did not result from force, threats or promises other than
14 those set forth in the Plea Agreement. Mr. Lee, you are
15 represented in this case by Ms. Moulder. Have you had enough
16 time to talk with her about your case?

17 MR. LEE: Yes, Your Honor, I have.

18 THE COURT: Are you satisfied with the advice that she's
19 given you?

20 MR. LEE: Very much so, Your Honor.

21 THE COURT: The law requires me to ask you if this
22 morning you are on any medication prescribed by a physician or
23 any drugs or alcohol of any kind which would affect your ability
24 to understand these proceedings?

25 MR. LEE: No, Your Honor.

1 THE COURT: Again, I'd like to direct your attention
2 back to the Plea Agreement this time to page 10, Paragraph 15,
3 which is entitled in bold **Waiver of Appellate and Post-Conviction**
4 **Rights**. This section is what we often refer to as an appeal
5 wavier. And it provides that you acknowledge, understand and
6 agree that by pleading guilty pursuant to the Plea Agreement that
7 you waive your right to appeal now or collaterally attack later a
8 finding of guilt following the acceptance of the Plea Agreement
9 except on grounds of ineffective assistance of counsel or
10 prosecutorial misconduct. That you expressly waive your right to
11 appeal your sentence directly now or collaterally later on any
12 ground except claims of ineffective assistance of counsel,
13 prosecutorial misconduct or an illegal sentence. An illegal
14 sentence includes a sentence imposed in excess of the statutory
15 maximum but does not include less serious sentencing errors such
16 as a misapplication of the Sentencing Guidelines, an abuse of
17 discretion, or the imposition of an unreasonable sentence.
18 However, if the Government exercised its right to appeal you
19 would be released from the appeal waiver and could appeal as
20 allowed by law. Do you understand that by signing this Plea
21 Agreement that you've given up those rights to appeal as set
22 forth in Paragraph 15?

23 MR. LEE: Yes, Your Honor.

24 THE COURT: Understanding that and the other matters
25 that we've discussed this morning, is it your desire for the

1 court to accept the plea of guilty?

2 MR. LEE: Yes, Your Honor.

3 THE COURT: Mr. McGull, on behalf of the United States,
4 do you have any other record under Rule 11 that you think I need
5 to make?

6 MR. McGULL: No, Your Honor.

7 THE COURT: Ms. Moulder, on behalf of the defendant, do
8 you have any other record under Rule 11 that you think I need to
9 make?

10 MS. MOULDER: No, Your Honor. Thank you.

11 THE COURT: I will recommend the plea of guilty be
12 accepted and I will order a Presentence Investigation to be
13 conducted by the Probation Office. Mr. Lee, good luck to you,
14 sir.

15 MR. LEE: Thank you, sir.

16 THE COURT: With that, we'll be in recess.

17 (Court Adjourned at 9:39 a.m.)
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5 I certify that the foregoing is a correct transcript
6 from the electronic sound recording of the proceeding in the
7 above-entitled matter.

8
9 /s/ Lissa C. Whittaker
Signature of transcriber

December 22, 2019
Date